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| 29052 7590 09/21/2010<br>SUTHERLAND ASBILL & BRENNAN LLP<br>999 PEACHTREE STREET, N.E.<br>ATLANTA, GA 30309 |             |                        |                     |                  |
| EXAMINER<br>COLBERT, ELLA   |             |                        |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/552,073

**Applicant(s)**

COYLE ET AL.

**Examiner**

Ella Colbert

**Art Unit**

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-84 and 118-129 is/are pending in the application.
- 4a) Of the above claim(s) 85-117 and 130-157 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-84 and 118-129 is/are rejected.
- 7) ☒ Claim(s) 47 and 81 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 26-157 are pending in this communication filed 2/24/10 entered as Untimely (Late) amendment and response to Restriction/Election with traverse. Claims 85-117 and 130-157 have been withdrawn in the communication filed 04/05/05.
2. The Abandonment mailed 1/11/10 was entered.
3. The Petition to Revive Application was granted and entered 4/28/10.

The Response to the Restriction with Traverse Arguments will be addressed in the section here below entitled "Arguments to Restriction with Traverse."

#### **Arguments and Answer to Restriction with Traverse**

MPEP 821.01 Election With Traverse

¶ 8.25 Answer to Arguments With Traverse

Applicant's election with traverse of Group III, Claims 58-84 in the reply filed on 2/24/10 is acknowledged.

The traversal is on the ground(s) that the election requirement is improper because the MPEP requires two criteria for a proper requirement for restriction between patentably distinct inventions: (A) the inventions must be independent; and (B) would be a serious burden on the examiner if the restriction is not required (See MPEP Section 803 (I)).

The Election/Restriction Requirement alleges that the inventions have different scopes, different modes of operation, and thus yield different effects and are not capable of use with each other and in response to the Election/Restriction Requirement, each of the alleged invention groups (I-V) includes at least one common technical feature that is a contribution over the prior art, and thus it would not be an undue burden to examine the claims in full.

The Examiner after careful consideration, however will, examine claims 26-84 and 118-129 as elected in the response to the Restriction/ Election in the reply of 04/05/05 since there has been an Office Action on the merits of those claims. However, the requirement for restriction is withdrawn in part and claims 85-117 and 130-157 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 2/24/10. See MPEP 821.01, section 8.05.

Claims 26-84 and 118-129 will be examined on the merits as set forth here below.

### ***Drawings***

The drawings are objected to because Figure 1 does not have enough margin at the bottom of the drawing figure since the stamp is in the drawing. Figure 2 does not have enough top margin because there are hole punch marks in the drawing at element (104) and the stamp of the application number is in the left side of the drawing figure. Drawing figures 4 and 7 have the same defect. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures

must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figure 3, element "300" is missing on Pg. 9, line 28 of the specification.

Figure 4 elements "436" and "477" are missing from the Specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "202" and "212" have both been used to designate "bank computer" and reference characters "204" and "104" have both been used to designate "bank account". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Figure 4 elements "102, 104, 112, 116, 212, and 214" are missing from the drawing which are referenced on pg. 12 of the Specification. Figure 5 has elements "102, 112, 114, 116, 211, and 214" missing from the drawing. Figure 6 has elements "500, 102, and 112" and Figure 7 has elements "102, 500, and 600" missing in the drawing figures.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### **Claims Interpretation**

In determining patentability of an invention over the prior art, all claim limitations have been considered and interpreted as broadly as their terms reasonably allow. See MPEP § 2111.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In *re Pruter*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). See MPEP § 2111.

All claim limitations have been considered. Additionally, all words in the claims have been considered in judging the patentability of the claims against the prior art. The following language is interpreted as not further limiting the scope of the claimed invention. See MPEP 2106 II C.

Language in a method claim that states only the intended use or intended result, but the

expression does not result in a manipulative difference in the steps of the claim.

Language in a system claim that states only the intended use or intended result, but does not result in a structural difference between the claimed invention and the prior art. In other words, if the prior art structure is capable of performing the intended use, then it meets the claim.

Claim limitations that contain statement(s) such as "if, may, might, can could", as optional language. As matter of linguistic precision, optional claim elements do not narrow claim limitations, since they can always be omitted.

Claim limitations that contain statement(s) such as "wherein, whereby", that fail to further define the steps or acts to be performed in method claims or the discrete physical structure required of system claims.

USPTO personnel should begin claim analysis by identifying and evaluating each claim limitation. For processes, the claim limitations will define steps or acts to be performed. For products, the claim limitations will define discrete physical structures or materials. Product claims are claims that are directed to either machines, manufactures or compositions of matter. See MPEP § 2106 II C.

The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language



that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

See MPEP § 2106 II C.

Independent claims are examined together, since they are not patentable distinct. If applicant expressly states on the record that two or more independent and distinct inventions are claimed in a single application, the Examiner may require the applicant to elect an invention to which the claims will be restricted.

### ***Claim Objections***

Claims 26-48, 61, 84, 118, 119, 122, and 129 are objected to because of the following informalities: Claim 26 recites "In a payment system of a licensed money transmitter operative to maintain ...". The preamble of claim 26 would be better recited as "A payment system of a licensed money transmitter operative to maintain ...". Claim 26 also recites in the preamble in the fourth line, "locations for disbursing funds to authorized recipients, an improvement for issuing a negotiable instrument ...". This line would be better recited as ""locations for disbursing funds to authorized recipients for issuing a negotiable instrument ...".

Claims 27-47 recite "The improvement of claim ...". The preamble of claims 27-47 would be better recited as "The system of claim ..." in order to be in agreement with the system claim 26. Claim 27 recites "selected from the group comprising a magnetic

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stripe card, a cash card, a check, a draft, a warrant, a money order, a transit check”.

This claim limitation should be written as “selected from the group comprising: a magnetic stripe card, a cash card, a check, a draft, a warrant, a money order, or a transit check”. Claim 61 has a similar issue. Claim 28 recites “..., wherein the a request for issuance of the ...”. This claim limitation should recite “..., wherein a request for issuance of the ...”. Claim 28 contains an acronym. Point of Sale (POS). The first time that an acronym is mentioned in a claim limitation the acronym should be written as, for example, Point of Sale (POS). Claim 41 recites “individual to ATM is treated by the licensed ...”. This claim limitation should recite “individual to an ATM is treated by the licensed ...”. Claim 48 recites “at the licensed money transmitter, and in response ...; at the licensed money transmitter, and in response to a determination ...; at the licensed money transmitter, and in response to the issuance of the requested prepaid ..., ...”. These claim limitations should be written as “issuing in response to the request at the licensed money transmitter an issuance of the prepaid negotiable instrument , ...; determining at the licensed money transmitter, and in response that the value of the ...; issuing at the licensed money transmitter, and in response to the issuance of the requested prepaid ..., ...”. Claims 118 and 119 have a similar issue. Method claim limitations to be in agreement with the other claim limitations usually end with a word ending in “ing”. Claim 84 recites “further operative for authorizing the issuance of a plurality of negotiable instruments so long as the balance ...”. This claim limitation should recite “further operative for authorizing the issuance of a plurality of negotiable instruments when the balance ...”. Claim 129 has a similar issue.

Claim 122 in the preamble recites "For use by a licensed money transmitter, a computer-controlled instrument payment system ..., ...". The preamble should recite "A computer-controlled instrument payment system for use by a licensed money transmitter for negotiable instrument transactions ..., ...". Claim 112, also recites "instruments are to be issued by the licensed money transmitter, ..., for:..., and". This portion of the claim limitation should be written as "instruments are issued by the licensed money transmitter, ..., for:...,;".

Claim 129 recites "The system of claim 122, wherein the transaction control module is further operative ..... instruments so long as the balance in the transaction account contains adequate funds therefor." This claim limitation should recite "The system of claim 122, wherein the transaction control module is further operative ... instruments as long as the balance in the transaction account contains adequate funds."

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26, 31, 34, 37, 38, 40-43, 45, 47, 50, 56, 58, 62, 65, 68, 71, 72, 74-79, 81, 82, 118, 119, 121-125, and 127 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 26 recites "licensed money transmitter" which cannot be determined from reading the Specification and the drawings whether the "licensed money transmitter" is an entity that is licensed to

transmit money or a human being that has a license to transmit money or an apparatus or device that has a license to transmit money. Applicants' specification tells what the "licensed money transmitter does but does not disclose what it is in regard to whether it is a human being or apparatus or device performing the functions in the claim limitations. Even in drawings do not clarify whether a "licensed money transmitter is an entity is an entity licensed to transmit money or an individual licensed to transmit money or an apparatus or device that can transmit money.

Claim 26 recites "a transaction account maintained by the licensed money transmitter, the transaction account being unauthorized to accept direct deposits of funds because of regulatory restrictions, funds in the transaction account being disburseable by said agent terminals, and wherein the transaction account is operable ...". It cannot be determined what Applicants' are attempting to claim in this claim limitation. Do Applicants' mean that the direct deposits are the same direct deposits associated with the licensed money transmitter or are they different direct deposits?

Also, this claim limitation would be better recited as "a transaction account maintained by the licensed money transmitter, the transaction account being unauthorized to accept direct deposits of funds which are prevented by regulatory restrictions, wherein the funds in the transaction account are disburseable by said agent terminals and the transaction account is operable ...".

Claims 27-47, 49-48, and 59-84 are also rejected because they depend from a rejected base claim.

***Claim Rejections - 35 USC § 101***

Claims 26, 31, 34, 37, 38, 40-43, 45, 47, 50, 56, 58, 62, 65, 68, 71, 72, 74-79, 81, 82, 118, 119, 121-125, and 127 are rejected under 35 U.S.C. 101 because the broadest interpretation of the claimed invention as a whole encompasses a human being which is nonstatutory subject matter. MPEP 2105 and *Diamond v. Chakrabarty* U.S. 303, 206 USPQ 193 (1980). Claims 27-47, 49-48, and 59-84 are also rejected because they depend from a rejected base claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26, 27, and 61, are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,650,604) Marcous, et al., hereafter Marcous in view of (US 6,424,706) Katz et al., Katz.

As per claim 26, Marcous discloses, In a payment system of a licensed money transmitter operative to maintain data records indicative of an amount of funds associated with an individual, the licensed money transmitter maintaining a network of agent terminals at various locations for disbursing funds to authorized recipients, an improvement for issuing a negotiable instrument corresponding to a predetermined direct deposit of funds on behalf of the individual, comprising:

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a transaction account maintained by the licensed money transmitter, the transaction account being unauthorized to accept direct deposits of funds because of regulatory restrictions in the transaction account being disbursable by said agent terminals (col. 3, line 59-col. 4, line 15). Marcous failed to disclose, wherein the transaction account is operable to be linked to an account maintained at a regulated financial institution and associated with the licensed money transmitter for receiving direct deposits of funds on behalf of individuals not maintaining accounts at the financial institution. Katz discloses, wherein the transaction account is operable to be linked to an account maintained at a regulated financial institution and associated with the licensed money transmitter for receiving direct deposits of funds on behalf of individuals not maintaining accounts at the financial institution (col. 2, line 64-col. 3, line 47). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Katz in Marcous because such an incorporation would allow Marcous to have an account where a person who is unbanked (does not have a bank account) can still transfer funds. Marcous further discloses, the licensed money transmitter being responsive to (a) a request for issuance of a negotiable instrument of a predetermined amount (col. 6, line 21 –col. 7, line 5 and lines 41-65) and (b) the electronic notification of the direct deposit of funds swept into the transaction account for issuing a prepaid negotiable instrument in an amount equal to or less than with the amount of the direct deposit the negotiable instrument being identifying information associated with the individual for use in making financial transactions, from the transaction account based on the direct deposit of funds to the financial institution, whereby an individual bearing

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the prepaid negotiable instrument may obtain funds and/or instruct that payments be made of the directly deposited funds by presentation of the negotiable instrument to an agent of the licensed money transmitter (col. 8, lines 53-67 and col. 9, line 7-col. 10, line 22). Marcous did not expressly disclose the deposit was made prior to the recipient being able to access the funds. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the deposit made prior to the recipient being able to access the funds and to modify in Marcous because such a modification would allow Marcous to have the capability to make a deposit prior to a recipient being able to access any funds in his system. It is well known that a deposit of funds has to be made prior to the funds being accessed by anyone.

As per claim 27, Marcous discloses, the improvement of claim 26, wherein the negotiable instrument is selected from the group comprising a magnetic stripe card, a cash card, a check, a draft, a warrant, a money order, a transit check (col. 2, lines 39-43 and col. 3, lines 50-56 and lines 62-63).

Claims 28-46, 62-80, 123, and 127-129 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,650,604) Marcous et al., here after Marcous in view of (US 6,424,706) Katz et al., hereafter Katz and further in view of (US 5,457,305) Akel et al., hereafter Akel.

As per claims 28, 62, and 123, Marcous discloses, The improvement of claim 26, wherein the request for issuance of the negotiable instrument of a predetermined

amount originates at a POS terminal operated by an agent of the licensed money transmitter (col. 2, lines 5-10). Marcous failed to disclose, a POS terminal. Akel discloses, a POS terminal (col. 4, lines 40-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a POS terminal and to modify in Marcous because such a modification would allow Marcous to have a computer used in place of a cash register that is capable of recording transactions, printing receipts, and handling credit and debit card payments.

As per claims 29 and 63, Marcous discloses, The improvement of claim 26, wherein the request for issuance of the negotiable instrument originates from an automated teller machine (ATM) (col. 2, lines 44-47 and col. 3, lines 59-67).

As per claims 30 and 64, Marcous discloses, The improvement of claim 26, wherein the transaction account is replenished by a deposit from a source other than direct deposit at the regulated financial institution (col. 2, line 52-col. 3, line 18).

As per claims 31 and 65, Marcous discloses, The improvement of claim 30, wherein the transaction account is replenished by a cash deposit via an automated teller machine (ATM), a POS terminal associated with the licensed money transmitter, or a non-direct deposit at a financial institution (col. 4, lines 6-30). Marcous failed to disclose, a POS terminal. Akel teaches a POS terminal (col. 4, lines 40-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a POS terminal and to modify in Marcous because such a modification would allow Marcous to have a computer used in place of a cash register that is capable



of recording transactions, printing receipts, and handling credit and debit card payments.

As per claims 32 and 66, Marcous discloses, The improvement of claim 26, wherein the individual is provided with a cash card for use in transactions associated with the transaction account (col. 3, lines 59-63).

As per claims 33 and 67, Marcous discloses, The improvement of claim 33, wherein the cash card includes identifying information (col. 4, lines 16-30).

As per claims 34 and 68, Marcous failed to disclose, The Improvement of claim 33, wherein the cash card includes human readable identifying information on one side and a magnetic stripe on another side, the magnetic stripe being readable by a POS terminal operated by an agent of the licensed money transmitter for obtaining the account identifier from the magnetic stripe. Akel discloses, wherein the cash card includes human readable identifying information on one side and a magnetic stripe on another side, the magnetic stripe being readable by a POS terminal operated by an agent of the licensed money transmitter for obtaining the account identifier from the magnetic stripe (col. 4, lines 27-32). These claims are rejected for the similar rationale as given above for claims 31, 32, 65, and 66.

As per claims 35 and 69, Marcous discloses, The improvement of claim 33, wherein the identifying information of the cash card includes an account identifier and a customer name (col. 4, line 65-col. 5, line 9 and lines 58-67).

As per claims 36 and 70, Marcous discloses, The improvement of claim 32, wherein the cash card is an anonymous cash card and the identifying information of the cash card only includes an account identifier (col. 4, lines 6-41).

As per claims 37 and 71, Marcous discloses, The improvement of claim 32, wherein a personal identifying number (PIN) is associated with the cash card, and the licensed money transmitter only conducts transactions with respect to the transaction account upon presentation of the card and a corresponding PIN (col. 4, line 65-col. 5, line 10 and lines 29-43).

As per claims 38 and 72, Marcous failed to disclose, The improvement of claim 32, wherein presentation of the cash card by an individual to a POS terminal of the licensed money transmitter is treated by the licensed money transmitter as the request for issuance of another negotiable instrument. Akel discloses, wherein presentation of the cash card by an individual to a POS terminal of the licensed money transmitter is treated by the licensed money transmitter as the request for issuance of another negotiable instrument (col. 6, lines 21-55). These claims are rejected for the similar rationale as given above for claims 28, 31, 34, 62, 65, and 68.

As per claims 39 and 73, Marcous discloses, The improvement of claim 32, wherein the cash card is a negotiable instrument (col. 6, lines 56-67).

As per claims 40 and 74, Marcous and Katz failed to disclose, The improvement of claim 32, wherein presentation of the cash card by an individual to a POS terminal of the licensed money transmitter is accessed by the licensed money transmitter as the request for disbursement of cash by an agent of the licensed money transmitter. Akel

discloses, wherein presentation of the cash card by an individual to a POS terminal of the licensed money transmitter is accessed by the licensed money transmitter as the request for disbursement of cash by an agent of the licensed money transmitter (col. 8, lines 19-28). These claims are rejected for the similar rationale as given above for claims 28, 31, 34, 62, 65, and 68.

As per claims 41 and 75, Marcous discloses, The improvement of claim 32, wherein presentation of the cash card by an individual to ATM is treated by the licensed money transmitter as the request for disbursement of cash by the ATM (col. 8, lines 11-22).

As per claims 42 and 76, Marcous discloses, The improvement of claim 32, wherein presentation of the cash card by an individual to a POS terminal of the licensed money transmitter to an ATM together with the presentation of cash is treated by the licensed money transmitter as the request for deposit of the cash to the transaction account associated with the individual (col. 8, lines 23-42). Marcous failed to teach a POS terminal as discussed above in claims 28, 31, 34, 62, 65, and 68.

As per claims 43 and 77, Marcous discloses, The improvement of claim 32, wherein the cash card is issued to an individual by the licensed money transmitter or an agent thereof after enrollment of the individual as a customer of the licensed money transmitter and provision of customer information (col. 1, lines 14-37 and col. 6, lines 21-55).

As per claims 44 and 78, Marcous discloses, The improvement of claim 43, wherein the privilege of depositing additional funds to the transaction account is only provided to enrolled customers of the licensed money transmitter (col. 2, lines 5-14).

As per claims 45 and 79, Marcous discloses, The improvement of claim 32, wherein the cash card is an anonymous cash card only bearing an account number and a personal identifying number (PIN), and wherein anonymous transactions involving the transaction account may be effected upon presentation by the individual of the cash card to an agent of the licensed money transmitter and the PIN (col. 5, lines 16-67 and col. 6, lines 1-10).

As per claims 46 and 80, Marcous discloses, The improvement of claim 45, wherein the anonymous cash card is a one-load cash card and is invalidated upon depletion of the predetermined funds in the transaction account (col. 7, lines 59-65 and col. 8, lines 11-22).

As per claims 82 and 127, Marcous and Katz failed to disclose, The system of claim 58, wherein the transaction control module is further operative for: receiving a balance increase request message from a POS terminal, the balance increase request message indicating that the balance of the transaction account for the benefit of the particular individual is to be increased by a requested amount and that the individual has rendered a payment in the requested amount to the agent of the licensed money transmitter. Akel discloses, receiving a balance increase request message from a POS terminal, the balance increase request message indicating that the balance of the transaction account for the benefit of the particular individual is to be increased by a

requested amount and that the individual has rendered a payment in the requested amount to the agent of the licensed money transmitter (col. 7, lines 14-22 and col. 8, lines 19-28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive a balance increase request message from a POS terminal, the balance increase request message indicating that the balance of the transaction account for the benefit of the particular individual is to be increased by a requested amount and that the individual has rendered a payment in the requested amount to the agent of the licensed money transmitter and to modify in Marcous because such a modification would allow Marcous to process a transaction request and coordinate the authorization and printing of the receipt at the POS terminal. Marcous teaches, in response to the balance increase request, communicating a message to credit the requested amount to the balance of the transaction account for the benefit of the individual (col. 6, line 56-col. 7, line 5).

As per claims 83 and 128, Marcous discloses, The system of claim 58, wherein the operation of the transaction control module for determining that the balance in the transaction account associated with the particular individual equals or exceeds the requested predetermined amount for the negotiable instrument comprises: receiving a PIN and an account number from the POS terminal purporting to identify a transaction account associated with the particular individual (col. 6, lines 21-55); determining that the account number identifies a transaction account (col. 7, lines 25-65); determining that the PIN identifies the individual as being authorized to access the transaction account (col. 8, lines 53-67 and col. 9, lines 1-11 and 25-30); and comparing the

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predetermined amount of the requested negotiable instrument plus any applicable fees to the balance of the transaction account (col. 9, line 58-col. 10, line 22). This dependent claim is rejected for the similar rationale as given above for claim 82.

As per claims 84 and 129, Marcous discloses, The system of claim 58, wherein the transaction control module is further operative for authorizing the issuance of a plurality of negotiable instruments so long as the balance in the transaction account contains adequate funds therefor (col. 6, line 54- col. 7, line 5 and lines 41-65).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 48-58, 118, 122, and 126 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,650,604) Marcous et al., hereafter Marcous in view of (US 6,012,048) Gustin et al, hereafter Gustin.

As per claim 48, Marcous discloses, A method for a licensed money transmitter to issue a prepaid negotiable instrument to an individual based on a direct deposit of funds in a regulated financial institution, composing the steps of arranging for communication of notifications between a regulated financial institution and the licensed money transmitter corresponding to a direct funds deposit, the direct funds deposit corresponding to a direct deposit of funds to the account of the licensed money transmitter for the benefit of a particular individual (col. 1, line 66-col. 2, line 14);

receiving from the regulated financial institution, an indication of a direct deposit of funds into an account for the benefit of the particular individual; communicating a notification of the direct deposit of funds to the licensed money transmitter (col. 2, lines 34-38); receiving from the regulated financial institution, automatically sweeping the total amount of the direct deposit of funds into a transaction account associated with the licensed money transmitter, the total amount of the direct deposit of funds being added to a current balance of the transaction account; receiving from as agent of the licensed money transmitter a communication comprising a request by the individual for the issuance of a requested prepaid negotiable instrument having a predetermined value (col. 9, lines 12-33). Marcous failed to disclose, at the licensed money transmitter, and in response to the request for issuance of the prepaid negotiable instrument, determining that the value of the requested prepaid negotiable instrument is not in excess of the balance of the transaction account; at the licensed money transmitter, and in response to a determination that the value of the requested prepaid negotiable instrument is not in excess of the balance of the transaction account, communicating an authorization for issue of the requested prepaid negotiable instrument to the agent; and at the licensed money transmitter, and in response to the issuance of the requested prepaid negotiable instrument, automatically debiting the balance of the transaction account by the value of the requested negotiable instrument. Gustin discloses, at the licensed money transmitter, and in response to the request for issuance of the prepaid negotiable instrument, determining that the value of the requested prepaid negotiable instrument is not in excess of the balance of the transaction account (col. 18, line 55 –

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col. 19, line 10); at the licensed money transmitter, and in response to a determination that the value of the requested prepaid negotiable instrument is not in excess of the balance of the transaction account, communicating an authorization for issue of the requested prepaid negotiable instrument to the agent (col. 4, lines 18-44 and col. 19, lines 11-44); and at the licensed money transmitter, and in response to the issuance of the requested prepaid negotiable instrument, automatically debiting the balance of the transaction account by the value of the requested negotiable instrument (col. 19, lines 35-39).

Claim 49. Marcous and Gustin failed to disclose, The method of claim 48, wherein the account at the financial institution is a first account and the transaction account is a second account, and wherein the step of automatically sweeping the total amount of the direct deposit of funds into the transaction account comprises posting a debit in the total amount of the funds in the first account and posting a credit in the total amount of the funds in the second account, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the account at the financial institution as a first account and the transaction account as a second account, and wherein the step of automatically sweeping the total amount of the direct deposit of funds into the transaction account comprises posting a debit in the total amount of the funds in the first account and posting a credit in the total amount of the funds in the second account and to modify in Marcous because such a modification would allow Marcous to have simply an accounting method for performing the transactions and transferring the funds as a direct deposit. Debiting a first account and



crediting a second account are well known in the art of accounting, record keeping, and bookkeeping.

Claim 50. Marcous failed to disclose, The method of claim 48, wherein the regulated financial institution is subject to federal banking regulations and wherein the licensed money transmitter is not subject to federal banking regulations. Gustin teaches, wherein the regulated financial institution is subject to federal banking regulations and wherein the licensed money transmitter is not subject to federal banking regulations (col. 2, lines 22-38 and col. 8, lines 9-16). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the regulated financial institution subject to federal banking regulations and wherein the licensed money transmitter not subject to federal banking regulations and to modify in Marcous because such a modification would allow Marcous to have the capability to wire transfer money through other companies such as Western Union which are not regulated by federal banking regulations and while banks are subject to federal banking regulations imposed by the Federal Government.

Claims 51 and 126. Marcous failed to disclose, The method of claim 50, wherein the regulated financial institution is a bank. Gustin discloses, the regulated financial institution is a bank (col. 8, lines 9-16). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the regulated financial institution to be a bank and to modify in Marcous because such a modification would allow Marcous to have an automated banking system that has components for

receiving an ATM card when inserted through an insert, slot or opening since the slot will accept the usual ATM card, credit cards, IC cards or smart cards.

Claim 52. Marcous failed to disclose, The method of claim 48 wherein the step of determining that the value of the requested negotiable instrument is not in excess of the balance of the transaction account comprises determining that the value of the requested negotiable instrument plus any fees charged to the individual is not in excess of the balance of the transaction account. Gustin discloses, determining that the value of the requested negotiable instrument is not in excess of the balance of the transaction account comprises determining that the value of the requested negotiable instrument plus any fees charged to the individual is not in excess of the balance of the transaction account (col. 17, lines 12-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to determine that the value of the requested negotiable instrument is not in excess of the balance of the transaction account comprises determining that the value of the requested negotiable instrument plus any fees charged to the individual is not in excess of the balance of the transaction account and to modify in Marcous because such a modification would allow Marcous to have the ability to see the transaction amount plus any fees and to see the account balance to prevent going over the account balance.

Claim 53. Marcous failed to disclose, The method of claim 48, wherein the individual requests the issuance of multiple negotiable instruments; wherein determining that the value of the requested negotiable instrument is not in excess of the balance of the transaction account comprises determining that the aggregate value of the

requested multiple negotiable instruments is not in excess of the balance of the transaction account; wherein communicating the authorization of the issuance of the requested negotiable instrument to the individual comprises communicating authorization of the issuance of the requested multiple negotiable instruments to the individual; and wherein debiting the balance of the transaction account by the value of the requested negotiable instrument comprises debiting the balance of the transaction account by the aggregate value of the requested multiple negotiable instruments.

Gustin teaches, wherein the individual requests the issuance of multiple negotiable instruments (col. 9, lines 46-59); wherein determining that the value of the requested negotiable instrument is not in excess of the balance of the transaction account comprises determining that the aggregate value of the requested multiple negotiable instruments is not in excess of the balance of the transaction account (col. 19, line 4-col. 20, line 67) and wherein communicating the authorization of the issuance of the requested negotiable instrument to the individual comprises communicating authorization of the issuance of the requested multiple negotiable instruments to the individual (col. 21, line 4-col. 22, line 25). Marcous and Gustin failed to disclose, wherein debiting the balance of the transaction account by the value of the requested negotiable instrument comprises debiting the balance of the transaction account by the aggregate value of the requested multiple negotiable instruments, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Marcous because such a modification would allow Marcous to have what is well known in the art of accounting the ability to perform a simple accounting function.

Claim 54. Marcous failed to disclose, The method of claim 53, wherein determining that the aggregate value of the requested multiple negotiable instruments is not is excess of the balance of the transaction account comprises determining that the aggregate value of the requested multiple negotiable instruments plus any fees charged to the individual is not in excess of the balance of the transaction account. Gustin discloses, determining that the aggregate value of the requested multiple negotiable instruments is not is excess of the balance of the transaction account comprises determining that the aggregate value of the requested multiple negotiable instruments plus any fees charged to the individual is not in excess of the balance of the transaction account (col. 1, lines 28-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to determine that the aggregate value of the requested multiple negotiable instruments is not is excess of the balance of the transaction account comprises determining that the aggregate value of the requested multiple negotiable instruments plus any fees charged to the individual is not in excess of the balance of the transaction account and to modify in Marcous because such a modification would allow Marcous to know the total amount of the negotiable instruments plus the transaction fee for each negotiable instrument and to know how much is in the transaction account in order to not be charged an extra fee for being over the balance in the transaction account. .

Claim 55. Marcous discloses, The method of claim 48, further comprising: detecting a balance increase request by the individual, the balance increase request indicating that the balance of the transaction account is to be increased by a requested

amount and that the individual has tendered a payment in the requested amount; in response to the balance increase request, crediting the requested amount to the second account (col. 6, line 56-col. 7, line 5 and col. 7, lines 6-23).

Claim 56. Marcous discloses, The method of claim 48, wherein the step of determining that the value of the requested prepaid negotiable instrument is not in excess of the balance of the transaction account comprises: at the agent of the licensed money transmitter, receiving a PIN and an account number provided by the requesting individual (col. 9, line 58-col. 10, line 6); communicating the individual-provided account number and PIN to the licensed money transmitter (col. 7, lines 42-65); at the licensed money transmitter, determining that the individual-provided account number identifies the transaction account (col. 8, lines 53-67); at the licensed money transmitter, determining that the PIN identifies the individual as being authorized to access the transaction account (col. 9, lines 1-29); and at the licensed money transmitter, comparing the value of the requested prepaid negotiable instrument to the balance of the transaction account (col. 9, lines 40-58). Marcous did not expressly disclose comparing a value of the requested prepaid negotiable instruments to a balance of the transaction account. However, Marcous does disclose, an ATM that can cash payroll checks, pay bills, use an ATM card or debit card to get cash or to transfer funds. It would have been obvious to one having ordinary skill in the art at the time the invention was made to compare a value of the requested prepaid negotiable instruments to a balance of the transaction account and to modify in Marcous because such a

modification would allow Marcous to have an accurate accounting record for the prepaid negotiable instruments.

Claim 57. Marcous discloses, The method of claim 48, further comparing the step of at the agent of the licensed money transmitter, and in response to receipt by the agent of the authorization for issuance of the requested prepaid negotiable instrument, issuing a prepaid negotiable instrument in the amount of the request, less any applicable transaction fees (col. 9, line 58 –col. 10, line 36).

Claims 58 and 122, Marcous discloses, A computer-controlled negotiable instrument payment system for negotiable instrument transactions conducted by a particular individual based on the direct deposit of funds at a regulated financial institution at which the particular individual does not maintain an account, comprising: a computer system operated by a licensed money transmitter that maintains a network of agent terminals (col. 4, line 42-64); a data communications interface associated with the computer system for data communications with a transaction system of the financial institution (col. 4, lines 48-60); an account sweep control module run by the computer system responsive to a notification received via the data communications interface from the financial institution indicating the direct deposit of funds in a predetermined deposit amount into the account at the financial institution for communicating a debit posting message indicating the predetermined deposit amount to the financial institution transaction system, the account sweep control module being further operative for crediting the predetermined deposit amount to a transaction account maintained by the licensed money transmitter for the benefit of the individual associated with the deposit

(col. 5, lines 50-67 and col. 6, lines 1-10 and line 51 –col. 7, line 5); a transaction control module run by the computer system and operative, in response to a request from a requesting source for issuance of a negotiable instrument in a predetermined amount for a particular individual for: determining whether the balance in the transaction account associated with the particular individual equals or exceeds the requested predetermined amount (col. 5, lines 33-63); and in response to a determination that the balance in the transaction account associated with the particular individual equals or exceeds the requested predetermined amount, communicating an authorization for issuance of the negotiable instrument in the requested predetermined amount to an agent terminal (col. 9, line 58-col. 10, line 6). Marcous failed to disclose, in response to the receipt from the agent terminal of a notification indicating the issuance of the negotiable instrument in the requested predetermined amount, posting a debit of the requested predetermined amount. Gustin discloses, in response to the receipt from the agent terminal of a notification indicating the issuance of the negotiable instrument in the requested predetermined amount, posting a debit of the requested predetermined amount (col. 18, line 55-col. 19, line 44). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have in response to the receipt from the agent terminal of a notification indicating the issuance of the negotiable instrument in the requested predetermined amount, posting a debit of the requested predetermined amount. Gustin discloses, in response to the receipt from the agent terminal of a notification indicating the issuance of the negotiable instrument in the requested predetermined amount, posting a debit of the requested predetermined

amount and to modify in Marcous because such a modification would allow Marcous to have a wire transfer that would have a number to be entered as the federal routing number and a deposit to be made with a printout receipt showing payment and a wire transfer.

As per claim 118, Marcous discloses, A method for a licensed money transmitter to issue a prepaid negotiable instrument to an individual based on the direct deposit of funds at a regulated financial institution, comprising the steps of: receiving from an agent of the licensed money transmitter, an indication of providing the individual with an account number and a PIN for subsequent use in obtaining the issuance of a prepaid negotiable instrument (col. 4, line65-col. 5, line 10 and lines 29-43); receiving from the financial institution, an indication of receiving a direct deposit of funds from the benefit of the individual for use in connection with funding the issuance of prepaid negotiable instruments (col. 2, lines 2-14); communicating a notification message from the financial institution to the licensed money transmitter indicating the direct deposit of funds to an account associated with the licensed money transmitter for the benefit of the individual (col. 2, line 52-col. 3, line 3); and in response to the direct deposit of funds at the financial institution, receiving an indication of sweeping funds in an amount corresponding to the direct deposit of funds from the account at the financial institution to the credit of a transaction account with the licensed money transmitter (col. 5, lines 50-65). This independent claim is rejected for the similar rationale as given above for claims 52 and 53.



Claims 59, 60, 119-121, 124, and 125 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,650,604) Marcous et al, hereafter Marcous and (US 6,012,048) Gustin et al, hereafter Gustin and further in view of (US 5,875,437) Atkins et al., hereafter Atkins.

Claim 59, Marcous and Gustin failed to disclose, The system of claim 58, wherein the requesting source comprises an automated teller machine (ATM), an agent point of sale (POS) terminal, or a card reader terminal. Atkins discloses, the requesting source comprises an automated teller machine (ATM), an agent point of sale (POS) terminal, or a card reader terminal (col. 34, lines 19-27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the requesting source comprise an automated teller machine (ATM), an agent point of sale (POS) terminal, or a card reader terminal and to modify in Marcous because such a modification would allow Marcous to have a computerized terminal providing cash dispensing and deposit acceptance banking transactions 24-hours a day and a POS system that is a computer used in place of a cash register for recording transactions.

As per Claims 60 and 125. Marcous discloses, The system of claim 58, wherein the regulated financial institution is subject to federal banking regulations and wherein the licensed money transmitter is not subject to federal banking regulations (col. 1, line 66-col. 2, line 14, and col. 3, lines 4-18).

As per claim 119. Marcous discloses, The method of claim 118, further comprising the steps of subsequent to the issuance of the prepaid negotiable instrument

in the requested amount, communicating a message from the agent to the licensed money transmitter indicating the issuance of the prepaid negotiable instrument; at the licensed money transmitter, posting a debit in the amount of the prepaid negotiable instrument, less any applicable transaction fees, to the transaction account associated with the account number and the PIN (col. 9, lines 40-57) .

Claim 120. Marcous discloses, The method of claim 118, further comprising the step of cashing the issued negotiable investment at the agent and providing the individual with cash (col. 9, line 58-col. 10, line 6).

Claim 121. Marcous failed to disclose, The method of claim 118, further comprising the steps of at the agent of the licensed money transmitter, receiving a request from the individual to increase the balance of the transaction account in a requested amount, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to have at the agent licensed money transmitter, receiving a request from the individual to increase the balance of the transaction account in a requested amount and to modify in Marcous because such a modification would allow Marcous to transfer more funds to the individual if Marcous agreed to increase the balance of the transaction account. Marcous teaches, determining that the individual is authorized to increase the balance of the transaction account (col. 5, lines 50-67); receiving from the individual a payment in a particular amount; generating a balance increase request requesting that the transaction account be edited is the requested amount; and communicating the balance increase request from the agent to the licensed money transmitter (col. 9, line 67-col. 10, line 6).

Claim 124. Marcous discloses, The system of claim 122, further comprising a support personnel system operatively associated with the computer system of the licensed money transmitter for providing computer support services far support personnel of the licensed money transmitter, in connection with transactions conducted with the system (col. 4, lines 42-64).

### ***Allowable Subject Matter***

Claims 47 and 81 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Claims 47 and 81, the anonymous cash card is converted into a regular cash card and enabled for use in connection with subsequent deposits of funds to the transaction account and further transactions upon enrollment of the individual as a customer of the licensed money transmitter.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Punch, Linda; "Debit card report: The debit dilemma".

Business Wire; "Moving Money in the New Millennium: Cardless Access for Consumers Western Union and EDS Create New Way for ATM Transfers".

American Banker; "First City Joins Move to Consolidated Debit, Credit Card Activities".

Business Wire; "MoneyGram Payment Sys: MoneyGram Announces Earnings for 1996".

### **Inquiries**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on a Flexible Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Trammell James can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Ella Colbert/

Primary Examiner, Art Unit 3694

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